

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

THE CHICKASAW NATION and	)	
THE CHOCTAW NATION,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No.: Civ-05-01524-W
	)	
THE DEPARTMENT OF THE INTERIOR,	)	Senior Judge Lee R. West
<u>et al.</u> ,	)	
	)	
Defendants.	)	
_____	)	

**PARTIES' JOINT MOTION TO FILE UNDER SEAL EXHIBIT 1 TO  
PARTIES' JOINT STIPULATION OF SETTLEMENT,  
AND [PROPOSED] ORDER**

Pursuant to Rules 5.3 and 79.1 of the Local Civil Court Rules and this Court's order dated December 19, 2006, protecting the confidentiality of certain documents and data to be provided by Defendants to Plaintiffs (ECF No. 45), Plaintiffs and Defendants (collectively, "the Parties") jointly and respectfully move the Court for an order directing that Exhibit 1 to the Parties' Joint Stipulation of Settlement and [Proposed] Order be filed and kept under seal. As shown below, good cause exists for this joint request.

After months of settlement negotiations, Plaintiff have reached settlement with Defendants regarding all of Plaintiffs' trust accounting and trust mismanagement claims in this case. As a result, the Parties have prepared a Joint Stipulation of Settlement, which will be filed in this case for this Court's review and determination. That Joint Stipulation of Settlement has three exhibits, the first of which consists of periodic statements of performance ("PSPs") (also known as "periodic statements of trust accounts") that are prepared by the Department of the Interior's Office of the Special Trustee

for American Indians (“OST”) and that contain financial information that relates to Plaintiffs’ trust fund accounts. Specifically, the PSPs contain data, such as that regarding Plaintiffs’ trust fund account balances, the extent to which such funds are being invested, and the rates of return on those investments. Given the sensitivity of this financial data in the PSPs, this Court has good cause to place Exhibit 1 of the Joint Stipulation under seal. *See Helm v. Kansas*, 656 F.3d 1277, 1292 (10th Cir. 2011) (filing under seal acceptable when “a real and substantial interest” exists); *Friedland v. TIC-The Indus. Co.*, 556 F.3d 1203, 1205 n.1-2, 1211 (10th Cir. 2009) (permitting sealed filings related to confidential settlement agreements).

Further, certain PSPs in Exhibit 1 to the Parties’ Joint Stipulation of Settlement contain or may contain financial information pertaining to individuals who are not parties to, or in any way involved in, this litigation. The presence of those individuals’ financial data will or may raise issues or concerns relating to the Privacy Act, 5 U.S.C. § 552a. Placing the PSPs under seal will obviate any Privacy Act issues or concerns that would or might arise if such individuals’ financial information were filed in open court along with the Parties’ Joint Stipulation of Settlement. *See Lucero v. Sandia Corp.*, 2012 U.S. App. LEXIS 18369 (10th Cir. Aug. 28, 2012) (documents containing “confidential information relating to . . . determining [corporate] compensation” should remain under seal); *cf. Dubai Islamic Bank v. Citibank, N.A.*, 211 F. Supp.2d 447, 449 (S.D.N.Y. 2001) (finding “good cause” justifying a protective order in light of “confidentiality and privacy concerns” relating to bank records which included “account records . . . both individual and corporate”). Accordingly, the Parties respectfully request that this Court grant their joint motion to file and keep under seal Exhibit 1 to their Joint Stipulation of Settlement.

Respectfully submitted this 24th day of September, 2015,

*/s/ Michael Burrage*  
*by /s/ Anthony P. Hoang*  
*pursuant to written authorization*  
*provided on September 24, 2015*

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**CERTIFICATE OF SERVICE**

I hereby certify that, on September 24, 2015, I electronically transmitted the foregoing Parties' Joint Motion for Leave to File Under Seal Exhibit 1 of Parties' Joint Stipulation of Settlement, and [Proposed] Order, using the ECF system for filing and transmission of a Notice of Electronic Filing to the ECF registrants in this case.

/s/ Anthony P. Hoang

ANTHONY P. HOANG